



W.P.No.5778 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5778 of 2024

Indian Overseas Bank,
Asset Recovery Management Branch,
No.11/952, Cross Cut Road,
Coimbatore-641 012
rep. by its Chief Manager.

.. Petitioner

vs

1.The Assistant Commissioner,
Sales Tax,
Ganapathi Circle,
Coimbatore-641 018.

2.M/s.Surabhi Iron and Steels Co. Pvt. Ltd.,
rep. by its Directors,
No.41/3, MGC Palayam, Kurukampalayam,
Coimbatore-641 107.

3.Syed Appas
4.A.Marimuthu
5.P.Senthil Rajavel

6.The Sub-Registrar,
Annur,
Coimbatore District.

.. Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the sixth respondent to register the sale certificate dated 27.12.2023 notwithstanding the attachment effected on 11.6.2015 by the first respondent in respect of secured property namely factory land and building situate at Sathy Road (Inner side), Kurukampalayam Road, nearby Ganesapuram, S.S.Kulam (via), Masagoundan Chettypalayam Village, Annur Taluk, comprised in S.F.No.41/3A (Old S.F.No.41/1 and 42/1 part) covered under Patta bearing No.3294, land measuring an extent of 2.9566 Acres belonging to the second respondent so as to enable the petitioner bank or its successors to register the sale certificate/sale deed in favour of respondents 3 to 5 in accordance with law.

For the Petitioner : Mr.M.L.Ganesh

For the Respondents : Mr.K.Karthik Jagannath
Government Advocate
for respondents 1 and 6

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.M.L.Ganesh, learned counsel for the petitioner and Mr.K.Karthik Jagannath, learned Government Advocate for respondents 1 and 6.



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2. It is submitted that the sale certificate is not being registered, in view of the attachment by the Sales Tax Department.

3. The mortgage is said to have been executed in the year 2010 and the attachment is effectuated on 11.6.2015. Section 26E of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short, "*the SARFAESI Act*"] would squarely apply to the present matter.

4. A Division Bench of Madurai Bench of Madras High Court in W.P.(MD) No.674 of 2023 [M/s.Cholamandalam Investment and Finance Company Ltd. v. District Registrar, Registration Department, Ariyallur Registration District, Ariyallur], by order dated 31.8.2023, held that "*the rights of the secured-creditor have a priority charge*".

5. This Court in W.P.No.19742 of 2021 [*Indian Overseas Bank, Asset Recovery Management Branch, rep. by its Chief Manager, Central Office, Annexe Building, Third Floor, 763, Anna Salai, Chennai – 600 002 v. The Assistant Commissioner (Commercial Tas, Cuddalore*



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Town), St.Joseph's School Road, Mangakuppam, Cuddalore-607 001]

and connected matters, decided on 27.9.2023, held that the secured creditor will have priority charge over the sales tax dues.

6. In the light of that, we pass the following order:

The sixth respondent shall not refuse to register the sale certificate on the ground of attachment by the Sales Tax Department, if the same is in order and complies with all other requirements.

7. The writ petition, as such, is disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

06.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

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- 1.The Assistant Commissioner,
Sales Tax,
Ganapathi Circle,
Coimbatore-641 018.
- 2.The Sub-Registrar,
Annur,
Coimbatore District.



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THE HON'BLE CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY,J.

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